

103D CONGRESS
1ST SESSION

S. 613

To prohibit the importation of goods produced abroad with child labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18 (legislative day, MARCH 3), 1993

Mr. HARKIN (for himself, Mr. CONRAD, Mr. INOUE, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. METZENBAUM, Mr. FEINGOLD, Mr. CAMPBELL, Mr. DORGAN, and Mr. RIEGLE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To prohibit the importation of goods produced abroad with child labor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Labor Deter-
5 rence Act of 1993”.

6 **SEC. 2. FINDINGS, PURPOSE, AND POLICY.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Principle 9 of the Declaration of the Rights
9 of the Child proclaimed by the General Assembly of

1 the United Nations on November 20, 1959, states
2 that “. . . the child shall not be admitted to employ-
3 ment before an appropriate minimum age; he shall
4 in no case be caused or permitted to engage in any
5 occupation or employment which would prejudice his
6 health or education, or interfere with his physical,
7 mental or moral development . . .”.

8 (2) Article 2 of the International Labor Con-
9 vention No. 138 Concerning Minimum Age For Ad-
10 mission to Employment states that, “The minimum
11 age specified in pursuance of paragraph 1 of this ar-
12 ticle shall not be less than the age of compulsory
13 schooling and, in any case, shall not be less than 15
14 years.”.

15 (3) According to the International Labor Orga-
16 nization, worldwide an estimated 200,000,000 chil-
17 dren under age 15 are working, many of them in
18 dangerous industries like mining and fireworks.

19 (4) Children under the age 15 constitute ap-
20 proximately 11 percent of the workforce in some
21 Asian countries, 17 percent in parts of Africa, and
22 a reported 12–26 percent in many countries in Latin
23 America.

24 (5) The number of children under age 15 who
25 are working, and the scale of their suffering, in-

1 crease every year, despite the existence of more than
2 20 International Labor Organization conventions on
3 child labor and laws in many countries which pur-
4 portedly prohibit the employment of under age chil-
5 dren

6 (6) In many countries, children under the age
7 15 lack either the legal standing or means to protect
8 themselves from exploitation in the workplace.

9 (7) The employment of children under the age
10 of 15 commonly deprives the children of the oppor-
11 tunity for basic education and also denies gainful
12 employment to millions of adults.

13 (8) The employment of children under the age
14 of 15, often at pitifully low wages, undermines the
15 stability of families and ignores the importance of
16 increasing jobs, aggregated demand, and purchasing
17 power among adults as a catalyst to the development
18 of internal markets and the achievement of broad-
19 based, self-reliant economic development in many de-
20 veloping countries.

21 (9) Adult workers in the United States and
22 other developed countries should not have their jobs
23 imperiled by imports produced by child labor in de-
24 veloping countries.

1 (b) PURPOSE.—The purpose of this Act is to curtail
2 the employment of children under age 15 in the production
3 of goods for export by—

4 (1) eliminating the role of the United States in
5 providing a market for foreign products made by un-
6 derage children; and

7 (2) encouraging other nations to join in a ban
8 on trade in such products.

9 **SEC. 3. UNITED STATES INITIATIVE TO CURTAIL INTER-**
10 **NATIONAL TRADE IN PRODUCTS OF CHILD**
11 **LABOR.**

12 In pursuit of the policy set forth in this Act, the
13 President is urged to seek an agreement with governments
14 that conduct trade with the United States for the purpose
15 of securing an international ban on trade in the products
16 of child labor.

17 **SEC. 4. IDENTIFICATION OF FOREIGN INDUSTRIES AND**
18 **THEIR RESPECTIVE HOST COUNTRIES THAT**
19 **UTILIZE CHILD LABOR IN EXPORT OF GOODS.**

20 (a) IDENTIFICATION OF INDUSTRIES AND HOST
21 COUNTRIES.—The Secretary of Labor (hereafter in this
22 section referred to as the “Secretary”) shall undertake
23 periodic reviews using all available information, including
24 information made available by the International Labor Or-
25 ganization and human rights organizations (the first such

1 review to be undertaken not later than 180 days after the
2 date of the enactment of the Act), to identify any foreign
3 industry and its host country that—

4 (1) utilize child labor in the export of products;
5 and

6 (2) has on a continuing basis exported products
7 of child labor to the United States.

8 (b) PETITIONS REQUESTING IDENTIFICATION.—

9 (1) FILING.—Any person may file a petition
10 with the Secretary requesting that a particular for-
11 eign industry and its host country be identified
12 under subsection (a). The petition must set forth the
13 allegations in support of the request.

14 (2) ACTION ON RECEIPT OF PETITION.—Not
15 later than 90 days after receiving a petition under
16 paragraph (1), the Secretary shall—

17 (A) decide whether or not the allegations
18 in the petition warrant further action by the
19 Secretary in regard to the foreign industry and
20 its host country under subsection (a); and

21 (B) notify the petitioner of the decision
22 under subparagraph (A) and the facts and rea-
23 sons supporting the decision.

1 (c) CONSULTATION AND COMMENT.—Prior to identi-
2 fying a foreign industry and its host country under sub-
3 section (a), the Secretary shall—

4 (1) consult with the United States Trade Rep-
5 resentative, the Secretary of State, the Secretary of
6 Commerce and the Secretary of the Treasury re-
7 garding such action;

8 (2) publish notice in the Federal Register that
9 such an identification is being considered and invit-
10 ing the submission within a reasonable time of writ-
11 ten comment from the public; and

12 (3) take into account the information obtained
13 under paragraphs (1) and (2).

14 (d) REVOCATION OF IDENTIFICATION.—

15 (1) IN GENERAL.—Subject to paragraph (2),
16 the Secretary may revoke the identification of any
17 foreign industry and its host country under sub-
18 section (a) if information available to the Secretary
19 indicates that such action is appropriate.

20 (2) REPORT OF SECRETARY.—No revocation
21 under paragraph (1) may take effect earlier than the
22 60th day after the date on which the Secretary sub-
23 mits to the Congress a written report—

24 (A) stating that in the opinion of the Sec-
25 retary the foreign industry and host country

1 concerned does not utilize child labor in the ex-
2 port of products; and

3 (B) stating the facts on which such opinion
4 is based and any other reason why the Sec-
5 retary considers the revocation appropriate.

6 (3) PROCEDURE.—No revocation under para-
7 graph (1) may take effect unless the Secretary—

8 (A) publishes notice in the Federal Reg-
9 ister that such a revocation is under consider-
10 ation and inviting the submission within a rea-
11 sonable time of written comment from the pub-
12 lic on the revocation; and

13 (B) takes into account the information re-
14 ceived under subparagraph (A) before preparing
15 the report required under paragraph (2).

16 (e) PUBLICATION.—The Secretary shall—

17 (1) promptly publish in the Federal Register—

18 (A) the name of each foreign industry and
19 its host country identified under subsection (a);

20 (B) the text of the decision made under
21 subsection (b)(2)(A) and a statement of the
22 facts and reasons supporting the decision; and

23 (C) the name of each foreign industry and
24 its host country with respect to which an identi-

1 fication has been revoked under subsection (d);
2 and

3 (2) maintain in the Federal Register a current
4 list of all foreign industries and their respective host
5 countries identified under subsection (a).

6 **SEC. 5. PROHIBITION ON ENTRY.**

7 (a) PROHIBITION.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), during the effective identification period
10 for a foreign industry and its host country, the Sec-
11 retary may not permit the entry of any manufac-
12 tured article that is a product of that foreign
13 industry.

14 (2) EXCEPTION.—Paragraph (1) shall not
15 apply to the entry of a manufactured article—

16 (A) for which a certification that meets the
17 requirements of subsection (b) is provided;

18 (B) that is entered under any subheading
19 in subchapter IV or VI of chapter 98 (relating
20 to personal exemptions) of the Harmonized
21 Tariff Schedule of the United States; or

22 (C) that was exported from the foreign in-
23 dustry and its host country and was en route
24 to the United States before the first day of the

1 effective identification period for such industry
2 and its host country.

3 (b) CERTIFICATION THAT ARTICLE IS NOT A PROD-
4 UCT OF CHILD LABOR.—

5 (1) FORM AND CONTENT.—The Secretary shall
6 prescribe the form and content of documentation, for
7 submission in connection with the entry of a manu-
8 factured article, that satisfies the Secretary that the
9 importer of the article has undertaken reasonable
10 steps to ensure, to the extent practicable, that the
11 article is not a product of child labor.

12 (2) WRITTEN EVIDENCE.—The documentation
13 required by the Secretary under paragraph (1) shall
14 include written evidence that the agreement setting
15 forth the terms and conditions of the acquisition or
16 provision of the imported article includes the condi-
17 tion that the article not be a product of child labor.

18 **SEC. 6. PENALTIES.**

19 (a) UNLAWFUL ACTS.—It is unlawful—

20 (1) during the effective identification period ap-
21 plicable to a foreign industry and its host country,
22 to attempt to enter any manufactured article that is
23 a product of that industry if the entry is prohibited
24 under section 5(a)(1); or

1 (2) to violate any regulation prescribed under
2 section 7.

3 (b) CIVIL PENALTY.—Any person who commits any
4 unlawful act set forth in subsection (a) is liable for a civil
5 penalty of not to exceed \$25,000.

6 (c) CRIMINAL PENALTY.—In addition to being liable
7 for a civil penalty under subsection (b), any person who
8 intentionally commits any unlawful act set forth in sub-
9 section (a) is, upon conviction, liable for a fine of not less
10 than \$10,000 and not more than \$35,000, or imprison-
11 ment for 1 year, or both.

12 (d) CONSTRUCTION.—The violations set forth in sub-
13 section (a) shall be treated as violations of the customs
14 laws for purposes of applying the enforcement provisions
15 of the Tariff Act of 1930, including—

16 (1) the search, seizure and forfeiture provisions;

17 (2) section 592 (relating to penalties for entry
18 by fraud, gross negligence, or negligence); and

19 (3) section 619 (relating to compensation to in-
20 formers).

21 **SEC. 7. REGULATIONS.**

22 The Secretary shall prescribe regulations that are
23 necessary or appropriate to carry out this Act.

24 **SEC. 8. DEFINITIONS.**

25 For the purposes of this Act:

1 (1) MANUFACTURED ARTICLE.—A manufac-
2 tured article shall be treated as being a product of
3 child labor if the article—

4 (A) was fabricated, assembled, or proc-
5 essed, in whole or part;

6 (B) contains any part that was fabricated,
7 assembled, or processed, in whole or in part; or

8 (C) was mined, quarried, pumped, or oth-
9 erwise extracted, by one or more children who
10 engaged in the fabrication, assembly, process-
11 ing, or extraction—

12 (i) in exchange for remuneration (re-
13 gardless to whom paid), subsistence, goods
14 or services, or any combination of the fore-
15 going;

16 (ii) under circumstances tantamount
17 to involuntary servitude; or

18 (iii) under exposure to toxic sub-
19 stances or working conditions otherwise
20 posing serious health hazards.

21 (2) CHILD.—The term “child” means an indi-
22 vidual who has not attained the age of 15.

23 (3) EFFECTIVE IDENTIFICATION PERIOD.—The
24 term “effective identification period” means, with re-

1 spect to a foreign industry or country, the period
2 that—

3 (A) begins on the date of that issue of the
4 Federal Register in which the identification of
5 the foreign industry or country is published
6 under section 4(e)(1)(A); and

7 (B) terminates on the date of that issue on
8 the Federal Register in which the revocation of
9 the identification referred to in subparagraph
10 (A) is published under section 4(e)(1)(B).

11 (4) ENTERED.—The term “entered” means en-
12 tered, or withdrawn from warehouse for consump-
13 tion, in the customs territory of the United States.

14 (5) FOREIGN INDUSTRY.—The term “foreign
15 industry” includes any entity that produces a manu-
16 factured article in any possession or territory of a
17 foreign country.

18 (6) HOST COUNTRY.—The term “host country”
19 means any possession or territory of a foreign coun-
20 try that is administered separately for customs pur-
21 poses and on which a foreign industry produces a
22 manufactured article.

23 (7) MANUFACTURED ARTICLE.—The term
24 “manufactured article” means any good that is fab-
25 ricated, assembled, or processed. The term also in-

1 cludes any mineral resources (including any mineral
2 fuel) that is entered in a crude state. Any mineral
3 resource that at entry has been subjected to only
4 washing, crushing, grinding, powdering, levigation,
5 sifting, screening, or concentration by flotation,
6 magnetic separation, or other mechanical or physical
7 processes shall be treated as having been processed
8 for the purposes of this Act.

9 (8) SECRETARY.—The term “Secretary”, except
10 for purposes of section 4, means the Secretary of the
11 Treasury.

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